



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

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You manage the ("Lodge"). As you describe it, the Lodge rents overnight accommodations "by the individual rather than by the room." Most rooms are dormitory style, and the charge is \$12.00 per adult and \$6.00 per child. The Lodge does not guarantee private accommodations in dormitory rooms unless a guest rents all the beds in a particular room at the \$12.00 rate.

In addition to the dormitory rooms the Lodge has two private rooms each with one double bed. You state that if one person occupies the room the charge is \$12.00; if two occupy the room the rate is \$12.00 each or \$24.00. A private room with double bed is rented to one person at the \$12.00 rate only when accommodations and number of guests permit. Where one person rents the private room in order to guarantee privacy the rate is \$24.00.

You ask how the 1984 amendment to the room occupancy tax affects the application of the room occupancy tax to the transactions you describe. In general, Massachusetts law imposes a tax upon the transfer of occupancy of any room or rooms in a hotel, lodging house or motel in Massachusetts, at a rate of 5.7 percent of the total rent charged for each occupancy. G.L. c. 64G, § 3; St. 1969, c. 546, § 22. The 1984 amendment provides that no tax is imposed if the total amount of rent is less than fifteen dollars per day or its equivalent. St. 1984, c. 358, § 2. Before the 1984 amendment no tax was imposed if the rent charged was less than two dollars per day or its equivalent. In addition, under G.L. c. 64G, § 3A, added by St. 1985 c. 145, § 6, a city or town which accepts the provisions of c. 64G, § 3A, may impose an additional excise of up to four percent on the transfer of occupancy of any room or rooms in a hotel within the city or town. See also 830 CMR 64G.01, "Local Option Room Occupancy Excise."

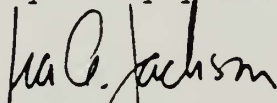
The term "occupancy" is defined to include the "use or possession, or the right to the use or possession, of any room or rooms in a hotel, lodging house or motel . . . or the right to the use or possession of the furnishings or the services and accommodations accompanying the use and possession of such room or rooms" G.L. c. 64G, § 1(e). "Rent" is defined as "the consideration received for occupancy valued in money" G.L. c. 64G, § 1(h).

A guest seeking overnight accommodations in a hotel, lodging house or motel typically rents a room rather than merely renting a bed. The use or possession, or right to use or possession of, such a room is considered a single occupancy regardless of the number of guests sleeping in the room. Therefore the room occupancy excise is levied on the room rental charge. If a hotel, motel or lodging house charges an additional amount for an extra guest in a private room, the total charge is the charge subject to tax. When a guest is charged for occupancy of a bed within a room and does not rent the entire room, the tax is levied on the amount the guest is charged for such occupancy. If the charge for such occupancy is less than fifteen dollars, no tax applies.

The specific transactions you describe are subject to the room occupancy tax as follows. When a guest is charged for occupancy of a bed within a dormitory room, the tax is levied on the amount the guest is charged for such occupancy. Since the Lodge charges less than \$15.00 for such occupancy, no tax applies. If a guest seeks to guarantee privacy in a dormitory room, the guest must rent all beds at the \$12.00 rate. In this situation the room occupancy tax is levied on the entire amount charged for the room.

To guarantee reservation of the private room for use by one person, a guest pays the \$24.00 rate. If two people occupy the private room, the rate is \$24.00. The rate for the private room, then, is \$24.00. Therefore, the room occupancy is levied on the entire amount charged for the private room. When circumstances are such that the total charge for a private room is only \$12.00, the room occupancy tax does not apply.

Very truly yours,


Commissioner of Revenue

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